
Status & Remarks

The application presently contains the following claims:

<i>Independent Claim #</i>	<i>Dependent Claim #s</i>
1	2-5, 7-10
11-40 (deleted)	
41	42-49
50	
51	

Claims 1, 9 and 41 are amended in this response. Claims 50-51 are newly added. Support for the amendment to claim 41 may be found with reference to Figs. 1-2 as originally filed. The other claim amendments were to correct antecedent basis issues.

Support for the newly added claims can be found with reference to the Figures as originally filed coupled with the following:

support for "contiguous support" comes from claim #11 as originally filed;
support for "generally flat back surface" comes from paragraph [0015] as originally filed;
support for "complete back support" comes from paragraph [0007] as originally filed; and
support for "telescoping" extension comes from paragraph [0044] as originally filed.

The examiner has acknowledged a timely request for continued examination under 37 C.F.R. § 1.114, and kindly withdrawn the finality of the previous Office action.

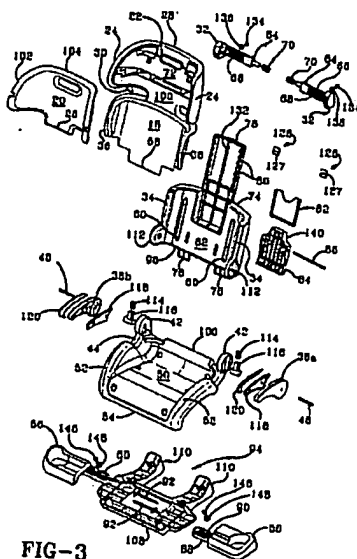
35 U.S.C. §112

The examiner has rejected claims 1-5, 7-10 under this section, first paragraph, as failing to comply with the written description requirement. The Office has indicated that the claim(s) contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that that inventor(s), at the time the application was filed, had possession of the claimed invention.

Specifically, the Office has indicated that claim 1 recites "an upwardly-extending projection having at

least two releasable means for securing said movable component in either said retracted or said at least one extended position." The Office has assumed that this recited upwardly-extending projection corresponds to the disclosed projection 64.

The applicant's attorney regrets the confusion which apparently was caused to the Office, and has amended the claim to remove this confusion. The applicant's attorney intended that the "upwardly-extending projection" correspond to the component labeled 78 in Fig. 3.



Claims 1-5 and 7-10 were rejected by the Office under this section, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Specifically, the Office indicated that the phrase "an upper headrest interior width" and the phrase "a lower area interior width" were unclear, thereby rendering the scope of the claim indefinite. Through amendment, this ambiguity has been removed.

Claim 9 was also rejected by the Office under this section, second paragraph regarding the limitation "said locking means." Through amendment, this ambiguity has been removed.

35 U.S.C. §102

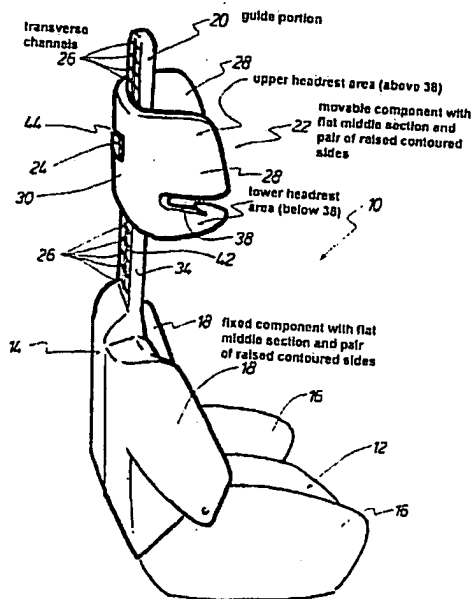
The Office has rejected claims 1-4 under this section, subparagraph (b) as being anticipated by United States Patent No. 6,273,509 B1 to *Reithmeier et al.* (hereinafter '509 or "*Reithmeier*"). The Office has represented that *Reithmeier* discloses a car seat that includes all of the limitations recited in claims 1-4 as understood by the Office.

Specifically, the Office has represented that *Reithmeier* shows and teaches the following:

- Seat member 12,
- Back member 14 connected to the seat member,
- A fixed component on the back member with a flat middle section and a pair of raised contoured sides 18,18 adjacent the middle section,
- A movable component 22 of the back member with a flat middle section 30 and a pair of raised contoured sides 28,28 adjacent the middle section,
- An upper headrest area (area above indentations 38,38) of the movable component with a pair of forward extending wings and an upper headrest interior width,
- A lower area (area below indentations 38,38) of the movable component that is separated from the upper headrest area by a pair of fixed size laterally and inwardly-projecting indentations that extend into the middle section of the movable component to accommodate a shoulder belt,
- A surface and contour of the lower area in cross-section for sliding movement along a mating contoured surface in cross-section of the fixed component,
- A lower interior width of the lower area,
- A means for positioning and retaining the movable component relative to the fixed component (Figs. 5-9) that is functionally equivalent to the structure recited in the specification of the instant application,
- An upwardly-extending projection 46 with at least two releasable means for securing the movable component wherein the movable component is capable of movement from a retracted position to an extended position,
- The lower area is fixedly connected to the upper headrest area,
- The upper headrest interior width and the lower area interior width being essentially the same,
- Movement from the retracted position to the extending position occurring by sliding movement of the moveable component over the fixed component along the raised contoured sides of both the fixed and movable components,
- The upper headrest area in an invariant fixed relationship to the lower area,
- The fixed and movable components in an overlapping essentially gapless relationship,
- The sliding movement does not increase a size of the indentations,
- The movable component is attached in front of the fixed component (along member 32,32),

- The components permit telescoping movement therebetween that is fixed by at least one longitudinal channel 42 in the fixed component, and
- The means for selecting position allows for infinitely variable movement.

As best understood by the applicant's attorney, at least the above teachings (there may be more) which are italicized and underlined, are not found in the *Reithmeier* '509 patent.



It is not understood how the examiner can conclude that there is "a surface and contour of the lower area in cross-section for sliding movement along a mating contoured surface in cross-section of the fixed component" in that there is no sliding whatsoever between the two components.

Additionally, there does not appear to be any teaching which shows "movement from the retracted position to the extending position occurring by sliding movement of the moveable component over the fixed component along the raised contoured sides of both the fixed and movable components" in that there is no sliding over any contours.

One of the keys to the applicant's invention is the fact that there is no "gap" between the fixed and movable components. When the *Reithmeier* car seat is in its extended position as illustrated to the left, there is without question, a gap between the fixed and movable component, a feature which is highly undesirable whether the gap is in the pelvis area (as illustrated by *Lovie* discussed below, or in the shoulder area (as illustrated by *Reithmeier*). There is no corresponding teaching to "the fixed and movable components in an overlapping essentially gapless relationship" as there most assuredly is a gap in *Reithmeier*.

By contrast, the applicant does have all of the above limitations, none of which are taught in the prior

art identified by the examiner, or which the applicant and/or his attorney is aware of. For purposes of illustration, the applicant's attorney has focused on these distinctions in the annotated graphic below.

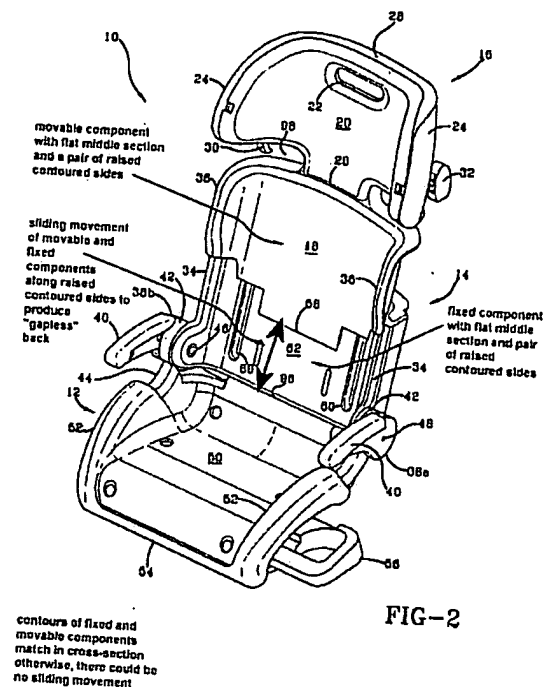


FIG-2

In the applicant's invention, it is correct to state that there is "a surface and contour of the lower area in cross-section for sliding movement along a mating contoured surface in cross-section of the fixed component."

In the applicant's invention, it is correct to state that there is "movement from the retracted position to the extending position occurring by sliding movement of the moveable component over the fixed component along the raised contoured sides of both the fixed and movable components."

In the applicant's invention, it is correct to state that there is no "gap" between the fixed and movable components and therefore, "the fixed and movable components [are] in an overlapping essentially gapless relationship".

None of the above is taught in *Reithmeier*, and therefore, the *Reithmeier* patent is not a proper § 102 prior art reference. For the reasons which will be articulated in the ensuing section, it is not a proper § 103 reference either.

35 U.S.C. §103

The Office has rejected claims 5, 7-10 and 41-49 under this section, subparagraph (a) (as best understood by the Office) as being unpatentable over *Reithmeier et al.*, in view of United States Patent No. 5,845,960 although perhaps United States Patent no. 5,845,968 to *Lovie* (hereinafter '968 or "Lovie") was intended. If the applicant's attorney is incorrect in his assumption regarding the correct patent to *Lovie*, then the Office is requested to please communicate the patent number which was intended and to make any follow-up communication a non-final action.

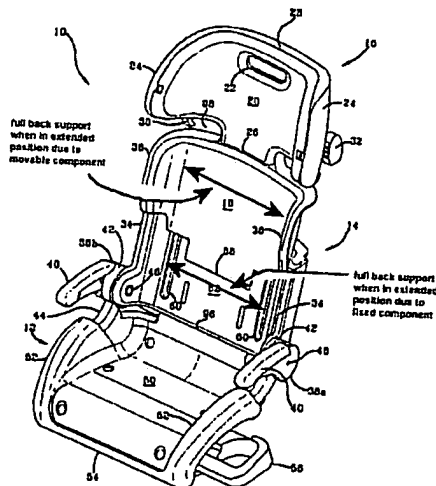
The Office has concluded that *Reithmeier* discloses the car seat that is basically the same as that recited in the rejected claims, with the exception that the fixed component lacks two longitudinal channels and that the car seat back is pivotable. The applicant's attorney would respectfully request that the Office review

its conclusion. While incremental movement (albeit by a different mechanism) is taught by *Reithmeier*, that teaching is only applicable to claim 7. And *Reithmeier* does not teach two longitudinal channels as is required in claim 5. Neither does this reference teach outwardly biased shafts (plural) as present in claim 8.

The Office has represented that Lovie may teach the missing components. However, this is a most selective reading of *Lovie* and represents parsing the claims and teachings into meaningless isolated statements. The Office has apparently ignored two meaningful limitations which are present in combination in claim 41, namely:

- A movable component which has a lower area below the seat belt indentations, the lower area having a contour in cross-section for sliding movement along the fixed component which has a mating contour in cross-section; and
- A lower area fixedly connected to the upper headrest area of the movable component.

No reference which the examiner has identified has this combination, the value of which is that the occupant has complete back support both in the pelvis area (thereby overcoming a shortcoming of *Lovie*) and in the neck region (thereby overcoming a shortcoming of *Reithmeier*) as illustrated below. This is an unobvious improvement over the prior art, and certainly not within the teachings of either *Reithmeier* and/or *Lovie* taken individually or in combination.



Meeker & Gibson invention



Lastly, Mr. Riedl concludes in paragraphs 8 – 10, “*That sliding movement from the collapsed to the extended position, is unique to the applicant and provides complete shoulder and pelvis support, a feature*

which is not illustrated in any of the prior art references which the examiner has identified and brought to bear on the patentability of the invention"; *That* since introduction of the product into the market several years ago, sales to distributors in the industry, have grown from zero (0) units to 90,000 units, with essentially no increase in the advertising budget at RC2 Corporation for this line of products"; and "*That* the commercial success of the product indicates that currently available alternatives did not meet the needs of the marketplace, since market acceptance has been predicated mainly upon the technical merits of the product, rather than related to the size of the marketing budget."

This is a factually supported conclusion by a well qualified individual in the field of the commercial success of the product due at least in part to the technical features of the product.

Request for Reconsideration

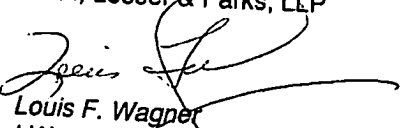
Applicant believes that all independent claims clearly define over the prior art and that the distinctions between the present invention and the prior art would not have been obvious to one of ordinary skill in the art. Additionally, the remaining dependent claims, by the limitations contained in the base independent claims, are felt to be patentable over the prior art by virtue of their dependency from independent claims which distinguish over the prior art of record. All pending claims are thought to be allowable and reconsideration by the Examiner is respectfully requested.

It is respectfully submitted that no new additional searching will be required by the examiner. A fee determination sheet is attached for this amendment response. The Commissioner is hereby authorized to charge any additional fee required to effect the filing of this document to Account No. 15-0450.

It is respectfully submitted that all references identified by the examiner have been distinguished in a non-obvious way. If the examiner believes that a telephonic conversation would facilitate a resolution of any and/or all of the outstanding issues pending in this application, then such a call is cordially invited at the convenience of the examiner.

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Respectfully Submitted,
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